

NHSLC - BUREAU OF ENFORCEMENT - AGENDA
WEDNESDAY, OCTOBER 22, 2008

1. SUSPENSIONS:

a. Action Pending:

None

b. Licensees Suspended For Non-Payment of Fines:

None

c. Licensees Suspended For Non-Compliance of RSA 178:2 (Mandatory training within 45 calendar days of the issuance of liquor license):

None

2. LICENSEES WHO MAY BE ORDERED TO A HEARING:

None

3. HEARINGS SCHEDULED FOR WEDNESDAY, OCTOBER 22, 2008:

None

4. HEARINGS SCHEDULED:

None

5. HEARINGS WITH DATES TO BE DETERMINED:

6. PENDING CASES:

None

7. WARNING LETTERS/FINES:

- a. The Draft, 67 South Main Street, Concord, NH.
Restaurant Full Service With Lounge License #1310603.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: March 27, 2008.
Case #: 08-283-OF.
Recommendation: Letter of Warning.
- b. Happy Clam Bar & Grille, 20 L Street, Hampton, NH.
Restaurant Full Service With Lounge License #1349803.
Licensed under RSA 178:21, II(a)(1)/178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an underage person during a compliance check.
Date of violation: August 28, 2008.
Case #: 08-630-OF.
Recommendation: \$500 Administrative fine and four (4) points assessed to the liquor license.

October 22, 2008 Enforcement Agenda

- c. Levy Restaurants, 1122 Route 106, Loudon, NH.
Caterer-Off-Site License #1275234.
Licensed under RSA 178:22, V(e).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an underage person.
Cited for violation of RSA 179:8, I - did fail to require the purchaser whose age is in question to furnish identification that such person is 21 years of age or over.
Date of violations: September 14, 2008.
Case #: 08-656-OF.
Recommendation: For violation of RSA 179:5, I, a Letter of Warning, four (4) points assessed to the liquor license, and a 3-day suspension of liquor license held in abeyance for twelve (12) months pending no like violation; and for violation of RSA 179:8, I, a \$100 Administrative fine.
- d. Lucky Dog Tavern & Grill, 53 South Main Street, Plymouth, NH.
Restaurant Full Service With Lounge License #1267803.
Licensed under RSA 178:21, II(a)(1)/178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: September 11, 2008.
Case #: 08-658-OF.
Recommendation: \$500 Administrative fine, four (4) points assessed to the liquor license, a 3-day suspension of liquor license held in abeyance for twelve (12) months pending no like violation, mandatory attendance at a Management Training Seminar within thirty (30) days of adjudication for all managers on duty at the time the violation occurred and mandatory attendance at a Total Education in Alcohol Management (TEAM) seminar within thirty (30) days of adjudication for all servers on duty at the time the violation occurred.
- e. Ming House, 3 Hillside Avenue, Berlin, NH.
Restaurant Full Service With Lounge License #1171303.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: April 17, 2008.
Case #: 08-625-OF.
Recommendation: \$750 Administrative fine suspended for twelve (12) months pending no like violation, four (4) points assessed to the liquor license, and mandatory attendance at a Total Education in Alcohol Management (TEAM) seminar within thirty (30) days of adjudication for all managers and servers on duty at the time the violation occurred.
- f. Ordway's Market, 250 South Street, Concord, NH.
Combination License #3183647.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an underage person during a compliance check.
Date of violation: September 20, 2008.
Case #: 08-665-OF.
Recommendation: \$500 Administrative fine and four (4) points assessed to the liquor license.

October 22, 2008 Enforcement Agenda

- g. The Page Restaurant, 172 Hanover Street, Portsmouth, NH.
Restaurant Full Service With Lounge License #1337003.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: September 14, 2008.
Case #: 08-666-OF.
Recommendation: Nol pros.
- h. Truant's Tavern, 96 Main Street, Woodstock, NH.
Restaurant Full Service With Lounge License #1256203.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: August 30, 2008.
Case #: 08-640-OF.
Recommendation: Letter of Warning & mandatory attendance at a Management Training Seminar within thirty (30) days of adjudication for the general manager.

8. NON-CONTESTED TITLE XIII VIOLATION FINES PAID IN FULL:

- a. Bow Mobil, 519 South Street, Bow, NH.
Combination License #3186347.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: October 10, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- b. Circle K, 24 Allenstown Road, Allenstown, NH.
Combination License #3228047.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: October 10, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- c. Circle K, 500 Route 3A, Bow, NH.
Combination License #3219547.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: October 10, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- d. Circle K, 163 North State Street, Concord, NH.
Combination License #3219647.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 9, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- e. Concord Farm, 188 Pleasant Street, Concord, NH.
Combination License #3202147.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.

October 22, 2008 Enforcement Agenda

- f. Concord Shell, 343 Loudon Road, Concord, NH.
Combination License #3116547.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID.
- g. Cornerview Restaurant, 80 1/2 South Street, Concord, NH.
Full Service Restaurant License #1041103.
Licensed under RSA 178:21, II(a).
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- h. Courtyard By Marriott of Concord,
70 Constitution Avenue, Concord, NH.
Hotel Full Service Restaurant With Lounge License #351302.
Licensed under RSA 178:22, V(k).
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- i. Flambeaux Bar & Grill, 1181 Elm Street, Manchester, NH.
Restaurant Full Service With Lounge License #1342103.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:17 - did allow beverages to be consumed on
the premise later than 30 minutes after the expiration of the serving hour.
Date of violation: September 20, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- j. Golden Palace Restaurant, 321 Nashua Street, Milford, NH.
Full Service Restaurant License #1189603.
Licensed under RSA 178:21, II(a).
Cited for violation of RSA 179:40 - did refill bottles of legally purchased
alcoholic beverage.
Date of Violation: October 9, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- k. Hannaford Food & Drug, 73 Fort Eddy Road, Concord, NH.
Combination License #45947.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- l. Lab'n Lager Food and Spirit, 122 Main Street, Keene, NH.
Restaurant Full Service With Lounge License #1327303.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:26, II - did fail to comply with other
agencies by not having a valid permit of assembly.
Date of violation: October 2, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- m. Lavallee Oil, 49 Glass Street, Pembroke, NH.
Combination License #704547.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: October 10, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.

October 22, 2008 Enforcement Agenda

- n. Longhorn Steakhouse, Monadnock Marketplace, Keene, NH.
Full Service Restaurant License #1291403.
Licensed under RSA 178:21, II(a).
Cited for violation of RSA 179:26, II - did fail to comply with other agencies by not having a valid permit of assembly.
Date of violation: October 3, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- o. Loudon Road Shell, 24 Loudon Road, Concord, NH.
Combination License #311667.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- p. Luyi House, 191 Elm Street #2, Milford, NH.
Full Service Restaurant License #1356303.
Licensed under RSA 178:21, II(a).
Cited for violation of RSA 179:40 - did refill bottles of legally purchased alcoholic beverage.
Date of violation: October 2, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- q. Maggie May's Pub, 326 South Broadway, Salem, NH.
Restaurant Full Service With Lounge License #1273103.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 178:21 - did fail to meet the food sales/alcohol ratio.
Date of violation: September 29, 2008.
ADMINISTRATIVE FINE \$100 PAID.
- r. Mandarin Taste, 51 South Main Street, Plymouth, NH.
Restaurant Full Service With Lounge License #1297103.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 178:21, I(c) - did allow alcoholic beverages to be removed from the licensed premises by patrons.
Date of violation: September 14, 2008.
ADMINISTRATIVE FINE \$100 PAID.
- s. Nonni's Italian Eatery, 19 West Main Street, Hillsboro, NH.
Full Service Restaurant License #1275103.
Licensed under RSA 178:21, II(a).
Cited for violation of RSA 179:40 - did refill bottles of legally purchased alcoholic beverage.
Date of violation: September 25, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- t. Pizza Hut, 333 Winchester Street, Keene, NH.
Restaurant Beverage and Wine License #1161703.
Licensed under RSA 178:20.
Cited for violation of RSA 179:26, II - did fail to comply with other agencies by not having a valid permit of assembly.
Date of violation: October 3, 2008.
ADMINISTRATIVE FINE \$250 PAID.

October 22, 2008 Enforcement Agenda

- u. Plymouth House of Pizza, 45 Main Street, Plymouth, NH.
Restaurant Full Service With Lounge License #268003.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:51 - did fail to conduct the premise in an orderly manner.
Date of violation: October 5, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- v. Railroad Tavern, 82 Main Street, Keene, NH.
Full Service Restaurant License #1202603.
Licensed under RSA 178:21, II(a).
Cited for violation of RSA 179:27 - did allow alcoholic beverages to be consumed in areas not approved for consumption.
Date of violation: October 4, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- w. Rite Aid, 356 Lafayette Road, Hampton, NH.
Combination License #3095247.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: August 28, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- x. Rite Aid, 358 Winchester Street, Keene, NH.
Combination License #3130247.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: August 23, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- y. Shaw's 392 Concord, 246 Loudon Road, Concord, NH.
Combination License #3080447.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: September 20, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- z. Somersworth High Street & Convenience,
463 High Street, Somersworth, NH.
Combination License #3119947.
Licensed under RSA 178:18.
Cited for violation of RSA 179:5, I.
Compliance Check: August 14, 2008.
ADMINISTRATIVE FINE \$500 PAID - FOUR (4) POINTS ASSESSED.
- aa. Tio Juan's Margaritas Mexican Restaurant,
77-81 Main Street, Keene, NH.
Restaurant Full Service With Lounge License #1171803.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:26, II - did fail to comply with other agencies by not having a valid permit of assembly.
Date of violation: October 3, 2008.
ADMINISTRATIVE FINE \$250 PAID.
- bb. White Mountain Exploration, 151 Tenney Mountain Road, Plymouth, NH.
Sports Recreation Facility License #572405.
Licensed under RSA 178:22, V(v).
Cited for violation of RSA 178:22, III - did allow alcoholic beverage to be consumed on the premise that was not sold by the licensee.
ADMINISTRATIVE FINE \$100 PAID.

October 22, 2008 Enforcement Agenda

- cc. Yen Yen, Route 202 South, Peterborough, NH.
Restaurant Full Service With Lounge License #267103.
Licensed under RSA 178:22, V(q).
Cited for violation of RSA 179:40 - did refill bottles of legally purchased alcoholic beverage.
Date of violation: October 8, 2008.
ADMINISTRATIVE FINE \$250 PAID.

9. NEW LICENSES:

None.

10. REQUESTS FOR SOLICITORS/REPRESENTATIVE AND DIRECT SHIPPER APPLICATION:

- a. Boyden Valley Winery LLC,
64 Vermont Route 104, Cambridge, VT 05444.
Direct Shipper Permit Application - RSA 178:27.
Recommendation: Approval.
- b. Catherine Johnson, DBA Ruch Services,
181 Upper Applegate Road, Jacksonville, OR 97530.
Direct Shipper Permit Application - RSA 178:27.
Recommendation: Approval.
- c. Oliver Wine Company, Inc.,
8024 North State Road 37, Bloomington, IN 47404.
Direct Shipper Permit Application - RSA 178:27.
Recommendation: Approval.
- d. Sebago Brewing Company,
48 Sanford Drive, Gorham, ME 04038.
To be issued Beverage Vendor Permit License #45831 pursuant to RSA 178:15.
Recommendation: Approval.

11. PETITIONS FOR COMMISSION APPROVAL:

- a. Big Country Holdings LLC DBA Concord Grille,
1 Eagle Square, Concord, NH 03301.
Restaurant On-Premise Cocktail Lounge License #1353703.
Licensed pursuant to RSA 178:22, V(q).
Requests approval for an additional area, to wit, an area called the Atrium owned by the New Hampshire Historical Society for October 25, December 6, December 31, 2008, February 21, March 14, and May 2, 2009 pursuant to RSA 178:24, RSA 179:53 and Liq. 404.05.
Recommendation: Approval.
- b. Carriage Towne Bar & Grille, Inc.,
53 Church Street, Kingston, NH 03848.
Restaurant On-Premise Cocktail Lounge License #1260503.
Licensed pursuant to RSA 178:22, V(q).
Requests approval to keep invoices at other location, to wit, to keep invoices and delivery slips at 12 New Road, Newmarket, NH pursuant to RSA 179:35.
Recommendation: Approval.

October 22, 2008 Enforcement Agenda

- c. Dover Amusement Group, LLC DBA Dover Bowl,
887B Central Avenue, Rollinsford, NH 03869.
Sports Recreation Facility On-Premise Cocktail Lounge License #6011705.
Licensed pursuant to RSA 178:22, V(v).
Requests approval for an additional areas, to wit, an additional designated area behind the lanes and the Texas Hold-EM Room pursuant to RSA 178:24, RSA 179:53 and Liq. 404.05.
Recommendation: Approval.
- d. Penuche's Manchester, LLC DBA Penuche's Grill,
96 Hanover Street, Manchester, NH 03101.
Restaurant On-Premise Cocktail Lounge License #1322203.
Licensed pursuant to RSA 178:22, V(q).
Requests approval for an outside area, to wit, an outside sidewalk area on October 17, 2008 from 5pm to 10 pm and October 18, 2008 from 11am to 10pm appropriately sanctioned off pursuant to RSA 178:24 and Liq. 404.05.
Recommendation: Approval.
- e. Kenneth & Deborah Smith DBA Maine-ly New Hampshire,
33 Deer Street, Suite 5A, Portsmouth, NH 03801.
Retail Table Wine Off-Premise Wine Only License #3145946.
Licensed pursuant to RSA 178:19.
Requests approval for Authorization to Transfer business location, to wit, to close the current business on October 17, 2008 and then transfer the business and supplies from 33 Deer Street, Suite 5A, Portsmouth NH to the new location at 22 Deer Street, Suite 100, Portsmouth NH to be completed on October 17, 2008 pursuant to RSA 178:29,VIII.
Recommendation: Approval.

12. **COMMISSION DECISIONS PENDING:**

- a. Haluwa Restaurant, 44 Gusabel Avenue, Nashua, NH.
Restaurant Full Service With Lounge License #416503.
Licensed under RSA 178:21, II(a)(1)/178:22, V(q).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an intoxicated person.
Date of violation: January 11, 2008.
Hearing date: February 25, 2008.
Commission Decision dated March 14, 2008: An Administrative fine of \$1,000, four (4) points assessed to the liquor license, and the license to sell alcoholic beverages suspended for three (3) consecutive days.
The Licensee filed a Motion for Re-hearing on April 8, 2008.
The Bureau of Enforcement filed an Objection to Motion for Re-hearing on May 6, 2008.
- b. Henniker Junction Restaurant, 24 Weare Road, Henniker, NH.
Restaurant Full Service With Lounge License #1167803.
Licensed under RSA 178:21, II(a)(1)/178:22, V(q).
Cited for violation of RSA 179:50, II - did allow the premise to be used for any purpose that was contrary to law.
Date of violation: February 7, 2008.
Hearing date: April 23, 2008.
- c. C & K Restaurant, 3 East Broadway Street, Derry, NH.
Restaurant Beverage and Liquor License #256803.
Licensed under RSA 178:21, II(a)(1).
Cited for violation of RSA 179:5, I - did sell or serve alcoholic beverage to an underage person during a compliance check.
Date of violation: May 30, 2008.
Hearing date: July 22, 2008.

- d. Standing Stone Vineyards, 9934 Route 414, Hector, NY.
Direct Shipper License #8086533.
Licensed under RSA 178:27.
Cited for violation of RSA 178:27, V - did fail to file a Direct Shipper Report by the 10th of the following month.
Date of violation: February 25, 2008.
Hearing date: July 22, 2008.

13. **COMMISSION DECISIONS AFTER HEARING:**

14. **MISCELLANEOUS ITEMS:**

- a. Questions from Auditing regarding the collection of taxes at NH wineries as follows:

- 1. 5 % tax on all retail sales at the winery and farmer's markets.
- 2. 5% tax on wholesale sales to NH Licensees for resale.

Taxes are not being collected on sales to the NH Liquor Commission, on sales to out-of-state vendors, and on product used for tasting at the winery. Is this correct based on your reading of the statute?

Taxes are being collected on product used for sampling and tasting outside the winery and on products shipped directly to out-of-state consumers or retail businesses (direct shipments). Is this correct procedure as you read the law?

Does this agree with your reading of the winery statute or are there are areas of concern? I am requesting a review due to the increase in direct shipments to out-of-state individuals and businesses which are outside the normal wholesale channels.

TABLED BY THE COMMISSION ON MAY 28, 2008 UNTIL CHAIRMAN BODI IS AVAILABLE FOR DISCUSSION.

15. **EXECUTIVE SESSION ITEMS:**